

OGC 73-1148

22 June 1973

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting of the ICRC Subcommittee on Foreign Documents

1. The ICRC Subcommittee on Foreign Documents met this morning at the National Archives Building. In attendance were Dr. James E. O'Neill of National Archives, Richard C. Tufaro of the White House Staff, Mark Spiegel of the State Department, and the undersigned.

2. The purpose of the meeting was to discuss guidelines prepared by Dr. O'Neill for declassification of 30-year-old foreign classified information and material. After considerable discussion, however, it became clear to all of us that a number of legal questions had to be resolved before we could reach the problem of guidelines.

3. We unanimously agreed that we would submit to the Office of Legal Counsel of the Department of Justice a set of questions dealing with the U. S. Government's authority under the Freedom of Information Act to declassify and disclose documents received from foreign countries.

4. Mr. Tufaro agreed to prepare a draft of the questions as we had considerable difficulty agreeing among ourselves as to the appropriate wording of these questions. The draft questions will be circulated next week for coordination. Essentially, however, as I see it, the questions are more or less as follows:

(a) Does the Freedom of Information Act apply to information received from foreign governments?;

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(b) If so, does the U.S. Government have the legal authority to declassify and publicly disclose such information without the prior consent of the originating foreign country?; and,

(c) If so, do executive agreements between the U.S. Government and the various foreign countries supersede the provisions of the Freedom of Information Act?

5. We recognized that much of the information received from foreign countries is probably exempted from public disclosure under one or more of the exemption categories of the Freedom of Information Act. Nonetheless, we felt that until the above legal questions are resolved, the Subcommittee could not proceed in its assigned task.

6. Mr. Tufaro is leaving the White House on June 29. In his absence Mr. Speigel and the undersigned have been requested to prepare the necessary papers and backup materials for the Department of Justice.

[Redacted Signature]

Assistant General Counsel

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cc: SAIC
ES/CIA/MC